



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 230524-0138]

RIN 0648-BL95

#### **Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 65**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** This action proposes to approve and implement Framework Adjustment 65 to the Northeast Multispecies Fishery Management Plan. This rule proposes to revise the rebuilding plan for Gulf of Maine cod, set catch limits for 16 of the 20 multispecies (groundfish) stocks, and make a temporary modification to the accountability measures for Georges Bank cod. This action also corrects erroneous regulations and removes outdated regulations. This action is necessary to respond to updated scientific information and to achieve the goals and objectives of the fishery management plan. The proposed measures are intended to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure that management measures are based on the best scientific information available.

**DATES:** Comments must be received by 5 pm EST on *[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

**ADDRESSES:** You may submit comments, identified by NOAA-NMFS-2023-0021, by the following method:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov](http://www.regulations.gov) and enter NOAA-NMFS-2023-0021 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. You may submit anonymous comments by entering "N/A" in the required fields if you wish to remain anonymous.

Copies of Framework Adjustment 65, including the draft Environmental Assessment, the Regulatory Impact Review, and the Regulatory Flexibility Act Analysis prepared by the New England Fishery Management Council in support of this action, are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The supporting documents are also accessible via the Internet at: <http://www.nefmc.org/management-plans/northeast-multispecies> or <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Liz Sullivan, Fishery Policy Analyst, phone: 978-282-8493; e-mail: [Liz.Sullivan@noaa.gov](mailto:Liz.Sullivan@noaa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Summary of Proposed Measures**

This action would implement the management measures in Framework Adjustment 65 to the Northeast Multispecies Fishery Management Plan (FMP). The New England Fishery Management Council reviewed the proposed regulations and

deemed them consistent with, and necessary to implement, Framework 65 in a May 4, 2023, letter from Council Chairman Eric Reid to Regional Administrator Michael Pentony. Under the Magnuson-Stevens Act, on behalf of the Secretary of Commerce, the Greater Atlantic Regional Fisheries Office's Regional Administrator approves, disapproves, or partially approves measures that the Council proposes, based on consistency with the Act and other applicable law. NMFS reviews proposed regulations for consistency with the fishery management plan, plan amendment, the Magnuson-Stevens Act and other applicable law. The Regional Administrator is seeking comments on these proposed regulations and intends to promulgate the final regulations after careful consideration of any submitted comments. Through Framework 65, the Council proposes to:

- Revise the rebuilding plan for Gulf of Maine (GOM) cod;
- Set shared U.S./Canada quotas for Georges Bank (GB) yellowtail flounder and eastern GB cod and haddock for fishing years 2023 and 2024;
- Set specifications, including catch limits for 16 groundfish stocks: GB haddock, GOM haddock, Southern New England/Mid-Atlantic (SNE/MA) yellowtail flounder, Cape Cod (CC)/GOM yellowtail flounder, American plaice, witch flounder, GB winter flounder, GOM winter flounder, SNE/MA winter flounder, pollock, ocean pout, Atlantic halibut, and Atlantic wolffish for fishing years 2023-2025, GB cod and GB yellowtail flounder for fishing years 2023-2024; and white hake for fishing year 2023;
- Remove the management uncertainty buffer for sectors for GOM haddock and white hake, if the at-sea monitoring (ASM) target coverage level is set at 90 percent or greater for the 2023 fishing year only; and
- Make a temporary modification to the accountability measures (AM) for GB cod.

This action also proposes regulatory corrections that are not part of Framework 65, but that may be considered and implemented under section 305(d) authority in the Magnuson-Stevens Act to make changes necessary to carry out the FMP. NMFS is proposing these corrections in conjunction with the Framework 65 proposed measures for expediency purposes. These proposed corrections are described in **Regulatory Corrections under Secretarial Authority**.

### **Rebuilding Plan for Gulf of Maine Cod**

Framework 65 would revise the rebuilding plan for GOM cod. The current rebuilding plan for GOM cod, as implemented by Framework 51 to the FMP (79 FR 22421, April 22, 2014), has a target date of 2024. On August 13, 2021, the Regional Administrator notified the Council that the stock was not making adequate rebuilding progress. The deadline to implement a rebuilding plan is August 13, 2023.

The Magnuson-Stevens Act requires that overfished stocks be rebuilt as quickly as possible, not to exceed 10 years when biologically possible, accounting for the status and biology of the stocks, the needs of fishing communities, and the interaction of the overfished stock within the marine ecosystem. Rebuilding plans must have at least a 50-percent probability of success. Selection of a rebuilding plan with a higher probability of success is one way of addressing uncertainty, but this does not affect the standard used in the future to determine whether a stock is rebuilt. The minimum rebuilding time ( $T_{\min}$ ) is the amount of time a stock is expected to take to rebuild to the biomass ( $B$ ) associated with maximum sustainable yield (MSY) in the absence of any fishing mortality ( $F$ ). The actual timeline set with a rebuilding plan ( $T_{\text{target}}$ ) may be greater than  $T_{\min}$ , but cannot exceed the maximum rebuilding time ( $T_{\max}$ ).  $T_{\max}$  is 10 years if  $T_{\min}$  is less than 10 years. In situations where  $T_{\min}$  exceeds 10 years,  $T_{\max}$  establishes a maximum time for rebuilding that is linked to the biology of the stock.

The GOM cod rebuilding program proposed in this action would rebuild the stock within 10 years, or by 2033, which is the maximum time period allowed by the Magnuson-Stevens Act. Projections suggest the stock could rebuild in 7 years at an  $F$  of zero. Fishing mortality of zero for GOM cod is currently technologically and economically impracticable given available gear, fishing methods, fishery management capability, and the multispecies nature of the commercial and recreational fishery. In addition to these factors, other biological and economic factors were identified and considered by the Council in setting  $T_{\text{target}} = T_{\text{max}}$ . First, recent recruitment estimates for this stock have been below average, and recruitment may be lower than assumed in the rebuilding projections, making the  $T_{\text{min}}$  projections (7 years at  $F = 0$ ) likely to be overly optimistic. There is uncertainty around the stock's natural mortality, and under one of the two approved models (M-ramp,  $M=0.4$ ), the stock cannot rebuild in the rebuilding projections. Long-term projections for many groundfish stocks have tended to be overly optimistic, such that future levels of biomass are overestimated and fishing mortality is underestimated. Additionally, recent commercial utilization of the GOM cod annual catch limit (ACL) is high, indicating that the stock is an important component of the fishing industry; a longer rebuilding period considers the needs of the fishing communities as much as practicable. The proposed rebuilding plan for GOM cod would set  $F_{\text{rebuild}}$  at 60 percent of  $F_{\text{MSY}}$  with a 70-percent probability of achieving  $B_{\text{MSY}}$  under the  $M=0.2$  model.

As part of the revised rebuilding plan for GOM cod, we propose to remove regulations at 50 CFR 648.90(a)(2)(iv), which include a review process for the rebuilding plans for GOM cod and American plaice. The revised rebuilding plan for GOM cod does not contain this Council review process, but is still subject to Secretarial review for determining adequate rebuilding progress. As of 2019, American plaice is rebuilt and no longer in a rebuilding plan, making this regulation unnecessary.

## **Fishing Years 2023 and 2024 Shared U.S./Canada Quotas**

### *Management of Transboundary Georges Bank Stocks*

Eastern GB cod, eastern GB haddock, and GB yellowtail flounder are jointly managed with Canada under the United States/Canada Resource Sharing Understanding. The Transboundary Management Guidance Committee (TMGC) is a government-industry committee made up of representatives from the United States and Canada. For historical information about the TMGC see: <http://www.bio.gc.ca/info/intercol/tmgc-cogst/index-en.php>. Each year, the TMGC recommends a shared quota for each stock based on the most recent stock information and the TMGC's harvest strategy. The TMGC's harvest strategy for setting catch levels is to maintain a low to neutral risk (less than 50 percent) of exceeding the fishing mortality limit for each stock. The harvest strategy also specifies that when stock conditions are poor, fishing mortality should be further reduced to promote stock rebuilding. The shared quotas are allocated between the United States and Canada based on a formula that considers historical catch (10-percent weighting) and the current resource distribution (90-percent weighting).

For GB yellowtail flounder, the Council's Scientific and Statistical Committee (SSC) also recommends an acceptable biological catch (ABC) for the stock. The ABC is typically used to inform the U.S. TMGC's discussions with Canada for the annual shared quota. Although the stock is jointly managed with Canada, and the TMGC recommends annual shared quotas, the Council may not set catch limits that would exceed the SSC's recommendation. The SSC does not recommend ABCs for eastern GB cod and haddock because they are management units of the total GB cod and haddock stocks. The SSC recommends overall ABCs for the total GB cod and haddock stocks. The shared U.S./Canada quota for eastern GB cod and haddock is included in these overall ABCs, and must be consistent with the SSC's recommendation for the total GB stocks.

### *2023 and 2024 U.S./Canada Quotas*

The Transboundary Resources Assessment Committee assessed the three transboundary stocks in July 2022, and detailed summaries of these assessments can be found at: <https://www.nefsc.noaa.gov/assessments/trac/>. The TMGC met in September 2022 to recommend shared quotas for 2023 based on the updated assessments, and made recommendations for eastern GB cod and GB yellowtail flounder. The Council adopted the TMGC’s recommendations in Framework 65. The TMGC was unable to reach consensus on the most appropriate combined Canada/U.S. quota for eastern GB haddock. Instead, the Council selected a U.S. quota based on the shared quota supported by the U.S. delegation and the established method of determining the allocation for each country (42 percent of 3,619 mt), and supported using 2,320 mt as an estimate of possible Canadian catch.

Framework 65 proposes to set the same shared quotas for a second year (*i.e.*, for fishing year 2024) as placeholders, with the expectation that those quotas will be reviewed annually and new recommendations will be received from the TMGC. The proposed 2023 and 2024 shared U.S./Canada quotas, and each country’s allocation, are listed in Table 1.

**Table 1 -- Proposed 2023 and 2024 Fishing Years U.S./Canada Quotas (mt, live weight) and Percent of Quota Allocated to Each Country**

Quota	Eastern GB Cod	Eastern GB Haddock	GB Yellowtail Flounder
Total Shared Quota	520	<i>No agreement</i>	200
U.S. Quota	135 (26 percent)	1,520	106 (53 percent)
Canadian Quota	385 (74 percent)	2,320 ( <i>estimate</i> )	94 (47 percent)

The proposed 2023 U.S. quotas for the three shared stocks represent decreases compared to 2022: Eastern GB cod by 15.6 percent, eastern GB haddock by 77 percent, and GB yellowtail flounder by 13 percent. For a more detailed discussion of the

TMGC's 2023 catch advice, including a description of each country's quota share, see the TMGC's guidance document that will be posted at:

<https://www.greateratlantic.fisheries.noaa.gov/>.

The regulations implementing the U.S./Canada Resource Sharing Understanding require deducting any overages of the U.S. quota for eastern GB cod, eastern GB haddock, or GB yellowtail flounder from the U.S. quota in the following fishing year. If catch information for the 2022 fishing year indicates that the U.S. fishery exceeded its quota for any of the shared stocks, we will reduce the respective U.S. quotas for the 2023 fishing year in a future management action, as close to May 1, 2023, as possible. If any fishery that is allocated a portion of the U.S. quota exceeds its allocation and causes an overage of the overall U.S. quota, the overage reduction would be applied only to that fishery's allocation in the following fishing year. This ensures that catch by one component of the overall fishery does not negatively affect another component of the overall fishery.

### **Catch Limits for Fishing Years 2023-2025**

#### *Summary of the Proposed Catch Limits*

Tables 2 through 11 show the proposed catch limits for the 2023-2025 fishing years. A brief summary of how these catch limits were developed is provided below. More details on the proposed catch limits for each groundfish stock can be found in Appendix II (Calculation of Northeast Multispecies Annual Catch Limits, FY 2023 – FY 2025) to the Framework 65 Environmental Assessment (see **ADDRESSES** for information on how to get this document).

Through Framework 65, the Council proposes to adopt catch limits for 13 stocks for the 2023-2025 fishing years and for white hake for the 2023 fishing year, based on stock assessments completed in 2022, and catch limits for GB cod and GB yellowtail flounder for fishing years 2023-2024. Framework 61 (86 FR 40353, July 28, 2021)



previously set 2023 quotas for redfish, northern windowpane flounder, and southern windowpane flounder based on assessments conducted in 2020, and those would remain in place. Framework 63 (87 FR 42375, July 15, 2022) previously set the 2023-2024 quota for GOM cod, based on an assessment conducted in 2021, and that would also remain in place. Table 2 provides an overview of which catch limits, if any, would change, as proposed in Framework 65, as well as when the stock was most recently assessed. Table 3 provides the percent change in the 2023 catch limit compared to the 2022 fishing year.

**Table 2 -- Changes to Catch Limits, as Proposed in Framework 65**

Stock	Most Recent Assessment	Proposed Change in Framework 65
GB Cod	2021	New 2023-2024 ABC
GOM Cod	2021	Adjust sub-components, 2023-2024 catch limit set by Framework 63
GB Haddock	2022	New 2023-2025 ABC
GOM Haddock	2022	New 2023-2025 ABC
GB Yellowtail Flounder	2022	New 2023-2024 ABC
SNE/MA Yellowtail Flounder	2022	New 2023-2025 ABC
CC/GOM Yellowtail Flounder	2022	New 2023-2025 ABC
American Plaice	2022	New 2023-2025 ABC
Witch Flounder	2022	New 2023-2025 ABC
GB Winter Flounder	2022	New 2023-2025 ABC
GOM Winter Flounder	2022	New 2023-2025 ABC
SNE/MA Winter Flounder	2022	New 2023-2025 ABC
Redfish	2020	No change: 2023 catch limit set by Framework 61
White Hake	2022	New 2023 ABC
Pollock	2022	New 2023-2025 ABC
N. Windowpane Flounder	2020	Adjust sub-components, 2023 catch limit set by Framework 61
S. Windowpane Flounder	2020	Adjust sub-components, 2023 catch limit set by Framework 61
Ocean Pout	2022	New 2023-2025 ABC
Atlantic Halibut	2022	New 2023-2025 ABC
Atlantic Wolffish	2022	New 2023-2025 ABC

N = Northern; S = Southern

**Table 3 -- Proposed Fishing Years 2023-2025 Overfishing Limits and Acceptable Biological Catches (mt, live weight)**

Stock	2023		Percent change from 2022	2024		2025	
	OFL	U.S. ABC		OFL	U.S. ABC	OFL	U.S. ABC
GB Cod	UNK	519	51%	UNK	519	-	-
GOM Cod	853	551	0%	980	551	-	-
GB Haddock	18,482	11,901	-85%	17,768	11,638	15,096	9,962
GOM Haddock	2,515	1,936	-83%	2,655	2,038	2,627	2,017

GB Yellowtail Flounder SNE/MA	UNK	106	-13%	UNK	106	-	-
Yellowtail Flounder CC/GOM	55	40	82%	89	40	345	40
Yellowtail Flounder	1,436	1,115	35%	1,279	992	1,184	915
American Plaice	7,316	5,699	102%	7,091	5,520	6,763	5,270
Witch Flounder	UNK	1,256	-15%	UNK	1,256	UNK	1,256
GB Winter Flounder	2,361	1,702	180%	2,153	1,549	2,100	1,490
GOM Winter Flounder	1,072	804	62%	1,072	804	1,072	804
SNE/MA Winter Flounder	1,186	627	38%	1,425	627	1,536	627
Redfish	13,229	9,967	-1%	-	-	-	-
White Hake	2,650	1,845	-13%	-	-	-	-
Pollock	19,617	15,016	-11%	18,208	13,940	17,384	13,294
N. Windowpane Flounder	UNK	160	0%	-	-	-	-
S. Windowpane Flounder	513	384	0%	-	-	-	-
Ocean Pout	125	87	0%	125	87	125	87
Atlantic Halibut	UNK	86	-15%	UNK	86	UNK	86
Atlantic Wolffish	124	93	1%	124	93	124	93

UNK = Unknown

*Note:* An empty cell indicates no OFL/ABC is adopted for that year. These catch limits would be set in a future action.

### *Overfishing Limits and Acceptable Biological Catches*

The overfishing limit (OFL) is calculated to set the maximum amount of fish that can be caught in a year, without constituting overfishing. The ABC is typically set lower than the OFL to account for scientific uncertainty. For GB cod, GB haddock, and GB yellowtail flounder, the total ABC is reduced by the amount of the Canadian quota (see Table 1 for the Canadian and U.S. shares of these stocks). Although the TMGC recommendations were only for fishing year 2023, the portion of the shared quota that would be allocated to Canada (or assumed for Canada, in the case of GB haddock) in fishing year 2023 was used to project the U.S. portions of the ABCs for these three stocks for 2024. This avoids artificially inflating the U.S. ABC up to the total ABC for the 2024 fishing year. The TMGC will make new recommendations for 2024, which would

replace any quotas for these stocks set in this action. Additionally, although GB winter flounder, white hake, and Atlantic halibut are not jointly managed with Canada, there is some Canadian catch of these stocks. Because the total ABC must account for all sources of fishing mortality, expected Canadian catch of GB winter flounder (38 mt), white hake (52 mt), and Atlantic halibut (74 mt) is deducted from the total ABC. The U.S. ABC is the amount available to the U.S. fishery after accounting for Canadian catch (see Table 3). For stocks without Canadian catch, the U.S. ABC is equal to the total ABC.

The OFLs are currently unknown for GB cod, GB yellowtail flounder, witch flounder, northern windowpane flounder, and Atlantic halibut. For 2023, the SSC recommended maintaining the unknown OFL for GB cod, GB yellowtail flounder, witch flounder, and Atlantic halibut. Empirical stock assessments are used for these five stocks, and these assessments can no longer provide quantitative estimates of the status determination criteria, nor were appropriate proxies for stock status determination able to be developed. In the temporary absence of an OFL, in this and previous actions, we have considered recent catch data and estimated trends in stock biomass as an indication that the catch limits derived from ABCs are sufficiently managing fishing mortality at a rate that is preventing overfishing. The SSC recommended setting the GB cod ABC based on an average between the output of the iSmooth (previously referred to as “PlanBsmooth”) approach and the total calendar year catch from 2020, which results in an increase (approximately 20 percent) from the previously set ABC value. Despite this increase, the SSC states that its recommendation is intended to support stock rebuilding by maintaining low catches relative to historic levels. The SSC noted that the fishing mortality in the GB yellowtail flounder fishery does not appear to be limiting stock recovery. However, the continued low stock biomass and poor recruitment for this stock warrant maintaining low catch levels. For witch flounder, the SSC supported the continued use of the swept-area biomass average and fixed harvest fraction for setting the

ABC, noting that the target harvest fraction is low relative to the historic harvest fraction for this stock and that the recommended ABC for witch flounder is not likely to result in overfishing. While the catch multiplier for Atlantic halibut remains below 1 for the last four years, despite reductions in ABC advice, the SSC highlighted the uncertainty of Canadian catch estimates and stated that the recommended ABC is not likely to result in overfishing. For each of these stocks, the Council has relied on the SSC to provide advice on the likelihood of preventing overfishing and promoting rebuilding under the proposed ABCs. Based on these considerations, we have preliminarily determined that these ABCs are a sufficient limit for preventing overfishing and are consistent with the National Standards. This action does not propose any changes to the status determination criteria for these stocks.

Subsequent to submitting Framework 65 to NMFS for review and rulemaking, at its April meeting the New England Council made a new request for NMFS to implement an emergency rule under section 305(c) of the Magnuson-Stevens Act to increase the ABC for GOM haddock based on concerns regarding the economic impacts of the low quota proposed in this action. We are considering this separately from Framework 65, and therefore it is not discussed further here.

#### *ABC for Georges Bank Cod*

The GB cod 2021 management track assessment followed the iSmooth approach, using updated commercial fishery catch data through calendar year 2020 and updated research survey indices of abundance through 2021. In Framework 63, the Council decided to set the GB cod ABC at 754 mt for only one year (fishing year 2022), requiring the Council to make a new recommendation for fishing years 2023 and 2024 in the current framework. The SSC met in August 2022 to discuss alternatives for the GB cod ABC for fishing years 2023 and 2024, and a majority of the SSC recommended an ABC of 904 mt, the average between the output of the iSmooth and the 2020 calendar year

catch of GB cod (based on the 2021 assessment). The Council selected 904 mt as its preferred option for the GB cod ABC.

The Council's EA for Framework 65 states that the 904 mt ABC would reduce, but not eliminate, adverse economic impacts, compared to the fishing year 2022 ABC of 754 mt. The Council included an updated analysis in its Framework 65 submission, applying the iSmooth approach using fall 2021 and spring 2022 surveys and catch data through 2021, consistent with the methodology and data sources used by the SSC when recommending the fishing year 2022 ABC. This updated analysis resulted in an amount that is 74 mt higher than the 904-mt ABC recommended by the Council. The Council did not revise its recommendation with the higher amount. Instead, it has demonstrated that the 904-mt ABC recommendation would contribute to stock rebuilding while having a low probability of overfishing. The sector component of the fishery will have a high (90-percent) target coverage level of monitoring in fishing year 2023, which is anticipated to help ensure the accuracy of commercial catch data.

### *Annual Catch Limits*

#### Development of Annual Catch Limits

The U.S. ABC for each stock is divided among the various fishery components to account for all sources of fishing mortality. An estimate of catch expected from state waters and the other sub-component (*e.g.*, non-groundfish fisheries or some recreational groundfish fisheries) is deducted from the U.S. ABC. The remaining portion of the U.S. ABC is distributed to the fishery components that receive an allocation for the stock. Components of the fishery that receive an allocation have a sub-ACL set by reducing their portion of the ABC to account for management uncertainty and are subject to AMs if they exceed their respective catch limit during the fishing year. For GOM cod and haddock only, the U.S. ABC is first divided between the commercial and recreational

fisheries, before being further divided into sub-components and sub-ACLs. This process is described fully in Appendix II of the Framework 65 Environmental Assessment.

#### Recreational Catch Target for GB cod

GB cod is not allocated to the recreational fishery. Instead, a catch target is set and used to calculate the amount deducted to account for state and other sub-component catch. Framework 65 proposes to set the GB cod recreational catch target based on the proportional change to the GB cod U.S. ABC from fishing year 2022 to 2023. Under the Council's preferred alternative of a 904-mt GB cod ABC, the recreational catch target would be 113 mt, which is an increase from the 75-mt catch target set for fishing year 2022.

Framework 63 modified the regulatory process for the Regional Administrator to adjust recreational measures to prevent the recreational catch target from being exceeded for fishing years 2023 and 2024. Any change to the recreational measures for GB cod would be implemented through a separate rulemaking.

#### Sector and Common Pool Allocations

For stocks allocated to sectors, the commercial groundfish sub-ACL is further divided into the non-sector (common pool) sub-ACL and the sector sub-ACL, based on the total vessel enrollment in sectors and the cumulative potential sector contributions (PSC) associated with those sectors. The sector and common pool sub-ACLs proposed in this action are based on final fishing year 2023 sector rosters. All permits enrolled in a sector, and the vessels associated with those permits, had until April 30, 2023, to withdraw from a sector and fish in the common pool for the 2023 fishing year. In addition to the enrollment delay, all permits that change ownership after the roster deadline were able to join a sector (or change sector) through April 30, 2023.

#### Management Uncertainty Buffer for Sectors

In Framework 65, the Council proposes to remove the management uncertainty buffer for the sector sub-ACL for GOM haddock and white hake, for only the 2023 fishing year, if the at-sea monitoring (ASM) coverage target is 90 percent or higher. The Council's goal is to mitigate the economic impacts of the ACLs for these two stocks by increasing the sector sub-ACLs if the ASM coverage target is high enough to reduce uncertainty. Amendment 23 (87 FR 75852, December 9, 2022) implemented a measure to set the management uncertainty buffer for the sector sub-ACL for each allocated groundfish stock to zero. In years that the ASM coverage target is set at 100 percent, the management uncertainty buffer will default to zero for the sector sub-ACL for allocated stocks, unless the Council's consideration of the 100-percent coverage target warrants specifying a different management uncertainty buffer in order to prevent exceeding the sub-ACL. The process by which the Council evaluates and sets management uncertainty buffers was unchanged by Amendment 23 and the Council may adjust management uncertainty buffers in future actions.

On March 16, 2023, the Regional Administrator announced that the fishing year 2023 ASM coverage target will be 90 percent. Therefore, if this measure is approved, sectors' sub-ABCs for GOM haddock and white hake would not be reduced to account for the management uncertainty for fishing year 2023 (see Table 4). The fishery would remain accountable for remaining within the sub-ACLs allocated to it for both stocks affected by this measure, and the removal of the management uncertainty buffer for the sectors alone is not likely to cause the ABC or OFL to be exceeded. The revised management uncertainty buffers apply only to sectors and not to the common pool component of the fishery or other sub-ACLs or sub-components for any stocks. In the case of GOM haddock, the recreational fishery and common pool fishery would both retain a management uncertainty buffer; for white hake, only the common pool fishery

would have a management uncertainty buffer applied. Therefore, a certain level of uncertainty buffer will continue to exist for each stock's ACL.

#### Common Pool Total Allowable Catches

The common pool sub-ACL for each allocated stock (except for SNE/MA winter flounder) is further divided into trimester TACs. Table 7 summarizes the common pool trimester TACs proposed in this action.

Incidental catch TACs are also specified for certain stocks of concern (*i.e.*, stocks that are overfished or subject to overfishing) for common pool vessels fishing in the special management programs (*i.e.*, special access programs (SAP) and the Regular B Days-at-Sea (DAS) Program), in order to limit the catch of these stocks under each program. Tables 8 through 11 summarize the proposed Incidental Catch TACs for each stock and the distribution of these TACs to each special management program.



**Table 4 -- Proposed Catch Limits for the 2023 Fishing Year (mt, live weight)**

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common Pool sub-ACL	Recreational sub-ACL	Midwater Trawl Fishery	Scallo p Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
	A to H	A+B+C	A	B	C	D	E	F	G	H
GB Cod	500	375	364	11					42	83
GOM Cod	522	470	268	11	192				48	3.4
GB Haddock	11,301	11,080	10,829	251		221			0	0
GOM Haddock*	1,888	1,818	1,183	25	610	18			45	6.4
GB Yellowtail Flounder	103	84	80	4.5			16.5	2.0	0.0	0.0
SNE/MA Yellowtail Flounder	38	33	25	8.1			2.7		0.2	2.0
CC/GOM Yellowtail Flounder	1,063	985	931	54					34	45
American Plaice	5,417	5,360	5,210	150					29	29
Witch Flounder	1,196	1,145	1,104	41					19	31
GB Winter Flounder	1,651	1,634	1,585	50					0	17
GOM Winter Flounder	772	607	519	88					153	12.1
SNE/MA Winter Flounder	604	441	387	53					19	144
Redfish	9,469	9,469	9,369	99					0	0
White Hake*	1,844	1,826	1,808	18					0	19
Pollock	14,325	13,124	13,001	123					676	526
N. Windowpane Flounder	150	105	na	105			31		0.8	13
S. Windowpane Flounder	371	45	na	45			129		13	184
Ocean Pout	83	49	na	49					0	34
Atlantic Halibut	83	64	na	64					17	1.3
Atlantic Wolffish	87	87	na	87					0	0

na: not allocated to sectors

\* GOM haddock and white hake catch limits are based on the removal of the management uncertainty buffer.

**Table 5 -- Proposed Catch Limits for the 2024 Fishing Year\* (mt, live weight)**

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common Pool sub-ACL	Recreational sub-ACL	Midwater Trawl Fishery	Scallop Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
	A to H	A+B+C	A	B	C	D	E	F	G	H
GB Cod	500	375	364	11					42	83
GOM Cod	522	470	268	11	192				48	3
GB Haddock	11,052	10,835	10,590	245		217			0	0
GOM Haddock	1,925	1,852	1,183	26	643	19			47	7
GB Yellowtail Flounder	103	84	80	4.5			17	2.0	0	0
SNE/MA Yellowtail Flounder	38	33	25	8.1			2.7		0.2	2.0
CC/GOM Yellowtail Flounder	946	877	828	48					30	40
American Plaice	5,247	5,192	5,046	145					28	28
Witch Flounder	1,196	1,145	1,104	41					19	31
GB Winter Flounder	1,503	1,488	1,442	45					0	16
GOM Winter Flounder	772	607	519	88					153	12.1
SNE/MA Winter Flounder	604	441	387	53					19	144
Pollock	13,299	12,184	12,070	114					627	488
Ocean Pout	83	49	na	49					0	34
Atlantic Halibut	83	64	na	64					17	1.3
Atlantic Wolffish	87	87	na	87					0	0

na: not allocated to sectors

\* Northeast multispecies stocks not included in Table 5 do not have catch limits approved or proposed for fishing year 2024.

**Table 6 -- Proposed Catch Limits for the 2025 Fishing Year\* (mt, live weight)**

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common Pool sub-ACL	Recreational sub-ACL	Midwater Trawl Fishery	Scallo p Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
	A to H	A+B+C	A	B	C	D	E	F	G	H
GB Haddock	9,460	9,275	9,065	210		185			0	0
GOM Haddock	1,905	1,833	1,171	26	636	19			47	7
SNE/MA Yellowtail Flounder	38	33	25	8			3		0	2
CC/GOM Yellowtail Flounder	873	808	764	45					28	37
American Plaice	5,009	4,957	4,818	139					26	26
Witch Flounder	1,196	1,145	1,104	41					19	31
GB Winter Flounder	1,446	1,431	1,387	44					0	15
GOM Winter Flounder	772	607	519	88					153	12.1
SNE/MA Winter Flounder	604	441	387	53					19	144
Pollock	12,683	11,619	11,510	109					598	465
Ocean Pout	83	49	na	49					0	34
Atlantic Halibut	83	64	na	64					17	1.3
Atlantic Wolffish	87	87	na	87					0	0

na: not allocated to sectors

\* Northeast multispecies stocks not included in Table 6 do not have catch limits approved or proposed for fishing year 2025.

**Table 7 -- Proposed Fishing Years 2023-2025 Common Pool Trimester TACs (mt, live weight)**

Stock	2023			2024			2025		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
GB Cod	3.0	3.6	4.1	3.0	3.6	4.1			
GOM Cod	5.2	3.5	1.9	5.2	3.5	1.9			
GB Haddock	67.6	82.7	100.2	66.1	80.8	98.0	56.6	69.2	83.9
GOM Haddock	6.6	6.4	11.6	7.0	6.7	12.2	6.9	6.7	12.1
GB Yellowtail Flounder	0.9	1.4	2.3	0.9	1.4	2.3			
SNE/MA Yellowtail Flounder	1.7	2.3	4.1	1.7	2.3	4.1	1.7	2.3	4.1
CC/GOM Yellowtail Flounder	31.0	14.1	9.2	27.6	12.6	8.2	25.5	11.6	7.6
American Plaice	111.0	12.0	27.0	107.5	11.6	26.2	102.6	11.1	25.0
Witch Flounder	22.6	8.2	10.3	22.6	8.2	10.3	22.6	8.2	10.3
GB Winter Flounder	4.0	12.0	33.9	3.6	10.9	30.8	3.5	10.5	29.6
GOM Winter Flounder	32.7	33.6	22.1	32.7	33.6	22.1	32.7	33.6	22.1
Redfish	24.8	30.8	43.7						
White Hake	6.7	5.5	5.5						
Pollock	34.4	42.9	45.4	31.9	39.9	42.1	30.4	38.0	40.2

**Table 8 -- Proposed Common Pool Incidental Catch TACs for the 2023-2025 Fishing Years (mt, live weight)**

Stock	Percentage of Common Pool sub- ACL	2023	2024	2025
GB Cod	1.68	0.18	0.18	
GOM Cod	1	0.11	0.11	
GB Yellowtail Flounder	2	0.09	0.09	
CC/GOM Yellowtail Flounder	1	0.54	0.48	0.45
American Plaice	5	7.50	7.27	6.94
Witch Flounder	5	2.06	2.06	2.06
SNE/MA Winter Flounder	1	0.53	0.53	0.53

**Table 9 -- Percentage of Incidental Catch TACs Distributed to Each Special Management Program**

Stock	Regular B DAS Program (percent)	Eastern U.S./CA Haddock SAP (percent)
GB Cod	60	40
GOM Cod	100	n/a
GB Yellowtail Flounder	50	50
CC/GOM Yellowtail Flounder	100	n/a
American Plaice	100	n/a
Witch Flounder	100	n/a
SNE/MA Winter Flounder	100	n/a

**Table 10 -- Proposed Fishing Years 2023-2025 Incidental Catch TACs for Each Special Management Program (mt, live weight)**

Stock	Regular B DAS Program			Eastern U.S./Canada Haddock SAP		
	2023	2024	2025	2023	2024	2025
GB Cod	0.11	0.11		0.07	0.07	
GOM Cod	0.11	0.11		n/a	n/a	n/a
GB Yellowtail Flounder	0.05	0.05		0.05	0.05	
CC/GOM Yellowtail Flounder	0.54	0.48	0.45	n/a	n/a	n/a
American Plaice	7.50	7.27	6.94	n/a	n/a	n/a
Witch Flounder	2.06	2.06	2.06	n/a	n/a	n/a
SNE/MA Winter Flounder	0.53	0.53	0.53	n/a	n/a	n/a

**Table 11 -- Proposed Fishing Years 2023-2025 Regular B DAS Program Quarterly Incidental Catch TACs (mt, live weight)**

Stock	2023				2024				2025			
	1st Quarter (13 percent)	2nd Quarter (29 percent)	3rd Quarter (29 percent)	4th Quarter (29 percent)	1st Quarter (13 percent)	2nd Quarter (29 percent)	3rd Quarter (29 percent )	4th Quarter (29 percent)	1st Quarter (13 percent)	2nd Quarter (29 percent)	3rd Quarter (29 percent)	4th Quarter (29 percent)
GB Cod	0.01	0.03	0.03	0.03	0.01	0.03	0.03	0.03				
GOM Cod	0.01	0.03	0.03	0.03	0.01	0.03	0.03	0.03				
GB Yellowtail Flounder	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01				
CC/GOM Yellowtail Flounder	0.07	0.16	0.16	0.16	0.06	0.14	0.14	0.14	0.06	0.13	0.13	0.13
American Plaice	0.98	2.18	2.18	2.18	0.94	2.11	2.11	2.11	0.90	2.01	2.01	2.01
Witch Flounder	0.27	0.60	0.60	0.60	0.27	0.60	0.60	0.60	0.27	0.60	0.60	0.60
SNE/MA Winter Flounder	0.07	0.15	0.15	0.15	0.07	0.15	0.15	0.15	0.07	0.15	0.15	0.15

## **Temporary Modification to Accountability Measures for GB Cod**

As described above, a portion of the ABC is set aside to account for an estimate of catch in state waters (including both commercial and recreational vessels) and catch in federal waters by the other non-specified fisheries (including non-groundfish commercial and recreational groundfish vessels). For allocated groundfish stocks, there are no accountability measures for the state and other sub-components; an overage to the ACL results in accountability measures for the allocated components of the groundfish fishery. If the overall ACL for a stock is exceeded, the amount of the overage due to catch from vessels fishing in state waters or other, non-specified fisheries is distributed between the allocated components of the groundfish fishery. Each component's attributed share of the overage is added to that component's catch to determine whether the AM for that component is triggered and the resulting overage amount. For the commercial fishery (sectors and common pool), the AM due to an overage is payback in a subsequent fishing year.

Framework 65 would temporarily modify the AMs for GB cod when an ACL overage that occurs in fishing years 2022-2024 is (in part or entirely) due to vessels fishing in state waters or other, non-specified fisheries. If in the year following the overage (Year 2), the ACL is not achieved or exceeded by any amount, the ACL underage would be proportionately applied to each component's share of the overage from Year 1. While the preliminary AM (*i.e.*, payback) would be implemented at the beginning of Year 3, any reduction to the overage (due to the underage in Year 2) would be made through an in-season adjustment as soon as possible in Year 3.

For example, if an ACL overage occurred in fishing year 2022, due to (in part or entirely) excess catch from the state or other sub-components, NMFS would determine the amount of this overage after the end of fishing year 2022, *i.e.*, in fishing year 2023. NMFS would then proportionately apply the excessive catch attributed to the state and other-subcomponents to catch from the allocated groundfish fisheries; in the case of GB cod, this

would be sectors and the common pool. If the resulting sum of sector catch plus the sectors' share of the state or other sub-component's overage resulted in an overage of the sector sub-ACL, sectors would be required to pay back this overage, pound for pound. The same would be done for the common pool's catch and share of the state and other sub-components' overage. Under the modification proposed in this action, however, if there were an underage of the ACL in fishing year 2023, this underage would be distributed between sectors and the common pool. The overage payback would be implemented at the start of fishing year 2024, but NMFS would implement the reduction of the payback due to the 2023 ACL underage through an in-season adjustment in 2024.

### **Regulatory Corrections under Secretarial Authority**

This rule corrects an error in the northeast regulations for monitoring service providers. We are making this correction consistent with section 305(d) of the Magnuson-Stevens Act, which provides that the Secretary of Commerce may promulgate regulations necessary to ensure that amendments to an FMP are carried out in accordance with the FMP and the Magnuson-Stevens Act. This change is necessary to correct the regulations detailing insurance requirements for monitoring companies to reference the national requirements.

On September 8, 2022, NMFS published a final rule (87 FR 54902) that implemented national insurance requirements for observer providers at 50 CFR 600.748 and revised the northeast regional monitoring program regulations at § 648.11(h)(3)(vii) to reference the newly established national insurance requirements. The final rule implementing Amendment 23 to the Northeast Multispecies FMP (87 FR 75852, December 9, 2022) inadvertently overwrote the northeast regional monitoring program regulations that referred to the national insurance requirements. This rule corrects the regulations at § 648.11(h)(3)(vii)(A) to reference the national insurance requirements. This correction is necessary to eliminate confusion and ensure the northeast monitoring program is consistent with the national insurance requirements.



Framework 65 would also make minor changes in the regulations. It would remove regulatory text that is specific to previous fishing years. Specifically, this action would remove a sentence in 50 CFR 648.90(a)(4)(iii)(H)(2) that is specific to the allocation of certain stocks for fishing years 2010 and 2011, and remove the paragraphs at § 648.90(a)(5)(iv)(B) through (D) that are specific to temporary (up through fishing year 2020) modifications to the triggers for the Atlantic sea scallop fishery's AMs for certain flatfish stocks. It would correct sections of the regulations (§§ 648.87(b)(1)(i)(A) and 648.90(a)(4)(iii)(F)) that refer to the northern and southern windowpane flounder as GOM/GB and SNE/MA windowpane flounder, respectively, which is inconsistent with other sections of the regulations. It would remove a section of text that describes the Fippenies Ledge Area that was moved to a different section of the regulations, but not deleted from § 648.87(c)(2)(i)(A). It would correct several citations in §§ 648.87(c)(2)(i) and 648.86(c) to paragraphs within § 648.90(a)(5)(i) that were redesignated in a previous action, but the citations were not updated.

### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with Framework 65, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. In making the final determination, the Regional Administrator will consider the data, views, and comments received during the public comment period.

NMFS finds that a 15-day comment period for this action provides a reasonable opportunity for public participation in this action, while also ensuring that the final specifications are in place as close to start of the groundfish fishing year on May 1, 2023, as possible. This action was developed by the New England Fishery Management Council as

part of the annual Framework Adjustment process, during which final action was taken in December 2022. However, due to the need for additional analysis regarding the measures proposed in Framework 65, the Council was not able to submit the final Framework until April 18, 2023. This action could not be proposed sooner as a result of the delays in submission. Stakeholder and industry groups have been involved with the development of this action and have participated in public meetings throughout the past year. A prolonged comment period and subsequent potential delay in implementation would be contrary to the public interest, as it would leave in place default quotas for some stocks that do not already have specifications for fishing year 2023, rather than replacing them with the quotas proposed in this rule, which are based on the best available science. For multiple stocks, the fishery is operating under lower quotas than those proposed in Framework 65, and an extended delay could limit economic opportunities for the fishery, as well as lead to confusion and uncertainty. Providing timely access to these stocks is also a potential safety issue. A significant portion of fishing activity occurs in early summer, due to better weather, and for some smaller vessels, summer may be the only season in which they are able to participate in the fishery.

This proposed rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for this proposed rule, as required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603. The IRFA describes the economic impact that this proposed rule would have on small entities, including small businesses, and also determines ways to minimize these impacts. The IRFA includes this section of the preamble to this rule and analyses contained in Framework 63 and its accompanying EA/RIR/IRFA. A copy of the full analysis is available from the Council (see **ADDRESSES**). A summary of the IRFA follows.

*Description of the Reasons Why Action by the Agency is Being Considered and Statement of the Objectives of, and Legal Basis for, this Proposed Rule*

This action proposes management measures, including annual catch limits, for the multispecies fishery in order to prevent overfishing, rebuild overfished groundfish stocks, and achieve optimum yield in the fishery. A complete description of the action, why it is being considered, and the legal basis for this action are contained in Framework 65, and elsewhere in the preamble to this proposed rule, and are not repeated here.

*Description and Estimate of the Number of Small Entities to Which this Proposed Rule Would Apply*

The proposed rule would impact the commercial and recreational groundfish, Atlantic sea scallop, small-mesh multispecies, Atlantic herring, and large-mesh non-groundfish fisheries. Individually permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different FMPs, beyond those impacted by the proposed action. Furthermore, multiple-permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of the Regulatory Flexibility Act analysis, the ownership entities, not the individual vessels, are considered to be the regulated entities.

As of June 1, 2022, NMFS had issued 681 commercial limited-access groundfish permits associated with vessels (including those in confirmation of permit history (CPH)), 610 party/charter groundfish permits, 699 limited access and general category Atlantic sea scallop permits, 717 small-mesh multispecies permits, 73 Atlantic herring permits, and 758 large-mesh non-groundfish permits (limited access summer flounder and scup permits). Therefore, this action potentially regulates 3,538 permits. When accounting for overlaps between fisheries, this number falls to 2,027 permitted vessels. Each vessel may be individually owned or part of a larger corporate ownership structure and, for RFA purposes,

it is the ownership entity that is ultimately regulated by the proposed action. Ownership entities are identified on June 1st of each year based on the list of all permit numbers, for the most recent complete calendar year, that have applied for any type of Greater Atlantic Federal fishing permit. The current ownership data set is based on calendar year 2021 permits and contains gross sales associated with those permits for calendar years 2019 through 2021.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR § 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. The determination as to whether the entity is large or small is based on the average annual revenue for the three years from 2019 through 2021. The Small Business Administration (SBA) has established size standards for all other major industry sectors in the U.S., including for-hire fishing (NAICS code 487210). These entities are classified as small businesses if combined annual receipts are not in excess of \$8.0 million for all its affiliated operations. As with commercial fishing businesses, the annual average of the three most recent years (2019-2021) is utilized in determining annual receipts for businesses primarily engaged in for-hire fishing.

Based on the ownership data, 1,506 distinct business entities hold at least one permit that the proposed action potentially regulates. All 1,506 business entities identified could be directly regulated by this proposed action. Of these 1,506 entities, 865 are commercial fishing entities, 274 are for-hire entities, and 367 did not have revenues (were inactive in 2021). Of the 865 commercial fishing entities, 854 are categorized as small entities and 11 are categorized as large entities, per the NMFS guidelines. Furthermore, 515 of these commercial fishing entities held limited access groundfish permits, with 512 of these entities

being classified as small businesses and 3 of these entities being classified as large businesses. All 274 for-hire entities are categorized as small businesses.

*Description of the Projected Reporting, Record-Keeping, and Other Compliance*

*Requirements of this Proposed Rule*

The proposed action does not contain any new collection-of-information requirements under the Paperwork Reduction Act (PRA).

*Federal Rules Which May Duplicate, Overlap, or Conflict with this Proposed Rule*

The proposed action does not duplicate, overlap, or conflict with any other Federal rules.

*Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities*

The economic impacts of each proposed measure are discussed in more detail in sections 6.5 and 7.12 of the Framework 65 Environmental Assessment (see ADDRESSES) and are not repeated here. The Council considered several options within the proposed GOM cod rebuilding plan, including a  $F_{\text{rebuild}}$  that are lower (50 percent of  $F_{\text{MSY}}$ ) and higher (70 and 75 percent of  $F_{\text{MSY}}$ ). The quotas that were set by Framework 63 remain in place for fishing years 2023-2024, and the proposed rebuilding strategy for GOM cod is expected to positively impact the groundfish fishery in the long-term through stock rebuilding. For the updated groundfish specifications, the Council also considered two lower ABC for GB cod, which would have greater negative economic impacts than the preferred alternative. There are no significant alternatives that would minimize the economic impacts. The proposed action is predicted to generate \$74.2 million in gross revenues on the sector portion of the commercial groundfish trips, which is \$41.7 million more than No Action, but \$4.0 million less than fishing year 2021. Small entities engaged in common pool groundfish fishing may be negatively impacted by the proposed action as well. Likewise, small entities engaged in the

recreational groundfish fishery are also likely to be negatively impacted. These negative impacts for both commercial and recreational groundfish entities are driven primarily by a substantial decline in the ACL for GOM haddock for fishing year 2023. While this decline is expected to result in short-term negative impacts, decreased GOM haddock catch in fishing year 2023 is expected to yield long-term positive impacts through stock rebuilding.

**List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Recordkeeping, and reporting requirements.

Dated: May 24, 2023.

---

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.

For the reasons stated in the preamble, NMFS proposes to amend 50 CFR part 648 as follows:

**PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES**

1. The authority citation for part 648 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 648.11, revise paragraph (h)(3)(vii)(A) to read as follows:

**§ 648.11 Monitoring coverage.**

\* \* \* \* \*

(h) \* \* \*

(3) \* \* \*

(vii) \* \* \*

(A) A monitoring service provider must hold insurance specified at § 600.748(b) and  
(c) of this chapter.

\* \* \* \* \*

3. In § 648.86, revise paragraph (c) to read as follows:

**§ 648.86 NE Multispecies possession restrictions.**

\* \* \* \* \*

(c) *Atlantic halibut*. A vessel issued a NE multispecies permit under § 648.4(a)(1) may land or possess on board no more than one Atlantic halibut per trip, provided the vessel complies with other applicable provisions of this part, unless otherwise specified in § 648.90(a)(5)(i)(F).

\* \* \* \* \*

4. Amend § 648.87 by:

- a. Revising paragraph (b)(1)(i)(A) and the first sentence of paragraph (c)(2)(i); and
- b. Removing paragraphs (c)(2)(i)(A) and (B).

The revisions read as follows:

**§ 648.87 Sector allocation.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) \* \* \*

(A) *Allocated stocks*. Each sector shall be allocated a TAC in the form of an ACE for each NE multispecies stock, with the exception of Atlantic halibut, ocean pout, windowpane flounder (both the northern and southern stocks), and Atlantic wolffish based upon the cumulative PSCs of vessels/permits participating in each sector during a particular fishing year, as described in paragraph (b)(1)(i)(E) of this section.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(i) *Regulations that may not be exempted for sector participants.* The Regional Administrator may not exempt participants in a sector from the following Federal fishing regulations: Specific times and areas within the NE multispecies year-round closure areas; permitting restrictions (*e.g.*, vessel upgrades, etc.); gear restrictions designed to minimize habitat impacts (*e.g.*, roller gear restrictions, etc.); reporting requirements; and AMs specified in § 648.90(a)(5)(i)(D) through (H). \* \* \*

\* \* \* \* \*

5. Amend § 648.90 by:

- a. Removing and reserving paragraph (a)(2)(iv);
- b. Revising paragraphs (a)(4)(iii)(A) and (B), (a)(4)(iii)(F), the introductory text of paragraph (a)(4)(iii)(H), paragraphs (a)(4)(iii)(H)(1)(i) and (a)(4)(iii)(H)(2), the second sentence of paragraph (a)(5)(i)(D), and paragraph (a)(5)(ii);
- c. Removing and reserving paragraph (a)(5)(iv)(B); and
- d. Removing paragraphs (a)(5)(iv)(C) and (D).

The revisions read as follows:

**§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.**

\* \* \* \* \*

(a) \* \* \*

(4) \* \* \*

(iii) \* \* \*

(A) *Regulated species or ocean pout catch by vessels operating only in state waters.*

The catch of regulated species or ocean pout that is expected to be harvested by vessels operating only in state waters that have not been issued a Federal NE multispecies permit and are not subject to the regulations specified in this part, as well as the recreational catch of regulated species or ocean pout that occurs in state waters, unless otherwise specified in



paragraph (a)(4)(iii)(H)(I)(i) of this section, shall be deducted from the ABC/ACL of each regulated species or ocean pout stock pursuant to the process for specifying ABCs and ACLs, as described in this paragraph (a)(4).

*(B) Regulated species or ocean pout catch by other, non-specified fisheries.*

Regulated species or ocean pout catch by other, non-specified fisheries, including, but not limited to, exempted fisheries that occur in Federal waters, fisheries harvesting exempted species specified in § 648.80(b)(3), and recreational fisheries that occur in Federal waters, unless otherwise specified in paragraph (a)(4)(iii)(H)(I)(i) of this section, shall be deducted from the ABC/ACL of each regulated species or ocean pout stock, pursuant to the process to specify ABCs and ACLs described in this paragraph (a)(4), unless otherwise specified in paragraphs (a)(4)(iii)(C) through (G) of this section. The catch of these non-specified sub-components of the ACL shall be monitored using data collected pursuant to this part. If catch from such fisheries exceeds the amount specified in this paragraph (a)(4)(iii)(B), AMs shall be developed to prevent the overall ACL for each stock from being exceeded, pursuant to the framework adjustment process specified in this section.

\* \* \* \* \*

*(F) Southern windowpane flounder catch by exempted fisheries.* Southern windowpane flounder catch by other, non-specified fisheries, including, but not limited to, exempted fisheries that occur in Federal waters and fisheries harvesting exempted species specified in § 648.80(b)(3), shall be deducted from the ABC/ACL for southern windowpane flounder pursuant to the process to specify ABCs and ACLs, as described in this paragraph (a)(4). The specific value of the sub-components of the ABC/ACL for southern windowpane flounder distributed to these other fisheries shall be specified pursuant to the biennial adjustment process specified in paragraph (a)(2) of this section.

\* \* \* \* \*

(H) *Regulated species or ocean pout catch by the NE multispecies commercial and recreational fisheries.* Unless otherwise specified in the ACL recommendations developed pursuant to paragraph (a)(4)(i) of this section, after all of the deductions and considerations specified in paragraphs (a)(4)(iii)(A) through (G) and (a)(4)(iii)(H)(1) of this section, the remaining ABC/ACL for each regulated species or ocean pout stock shall be allocated to the NE multispecies commercial fishery, pursuant to paragraph (a)(4)(iii)(H)(2) of this section.

\* \* \*

(I) \* \* \*

(i) *Stocks allocated.* Unless otherwise specified in this paragraph (a)(4)(iii)(H)(1), the ABCs/ACLs for GOM cod and GOM haddock set pursuant to paragraph (a)(4) of this section shall be divided between commercial and recreational components, based upon the average proportional catch of each component for each stock during fishing years 2001 through 2006.

\* \* \* \* \*

(2) *Commercial allocation.* Unless otherwise specified in this paragraph (a)(4)(iii)(H)(2), the ABC/ACL for regulated species or ocean pout stocks available to the commercial NE multispecies fishery, after consideration of the recreational allocation pursuant to paragraph (a)(4)(iii)(H)(1) of this section, shall be divided between vessels operating under approved sector operations plans, as described at § 648.87(c), and vessels operating under the provisions of the common pool, as defined in this part, based upon the cumulative PSCs of vessels participating in sectors calculated pursuant to § 648.87(b)(1)(i)(E). The ABC/ACL of each regulated species or ocean pout stocks not allocated to sectors pursuant to § 648.87(b)(1)(i)(E) (*i.e.*, Atlantic halibut, ocean pout, windowpane flounder, and Atlantic wolffish) that is available to the commercial NE multispecies fishery shall be allocated entirely to the common pool, and catch from sector and common pool vessels shall be attributed to this allocation. Unless otherwise specified in paragraph (a)(5) of this section, regulated species or ocean pout catch by common pool and

sector vessels shall be deducted from the sub-ACL/ACE allocated pursuant to this paragraph (a)(4)(iii)(H)(2) for the purposes of determining whether adjustments to common pool measures are necessary, pursuant to the common pool AMs specified in § 648.82(n), or whether sector ACE overages must be deducted, pursuant to § 648.87(b)(1)(iii).

\* \* \* \* \*

(5) \* \* \*

(i) \* \* \*

(D) *AMs for both stocks of windowpane flounder, ocean pout, Atlantic halibut, and Atlantic wolffish.* \* \* \* If the overall ACL for any of these stocks is exceeded, NMFS shall implement the appropriate AM, as specified in paragraphs (a)(5)(i)(D) through (H) of this section, in a subsequent fishing year, consistent with the APA. \* \* \*

\* \* \* \* \*

(ii) *AMs due to excessive catch of regulated species or ocean pout by state and other, non-specified fisheries.* At the end of the NE multispecies fishing year, NMFS will evaluate whether the catch of any stock of regulated species or ocean pout by vessels operating only in state waters or in other, non-specified fisheries, as defined in paragraphs (a)(4)(iii)(A) and (B) of this section, exceeds the sub-component of the ACL for that stock.

(A) *AMs if the overall ACL for a regulated species or ocean pout stock is exceeded.* If the catch of any stock of regulated species or ocean pout by vessels operating only in state waters or in other, non-specified fisheries exceeds the sub-component of the ACL for that stock, and the overall ACL for that stock is exceeded, then the amount of the overage of the overall ACL for that stock attributed to catch from vessels operating only in state waters or in other, non-specified fisheries, as defined in paragraphs (a)(4)(iii)(A) and (B) of this section, shall be distributed among components of the NE multispecies fishery based upon each component's share of that stock's ACL available to the NE multispecies fishery pursuant to paragraph (a)(4)(iii)(H) of this section. Each component's share of the ACL overage for a

particular stock would be then added to the catch of that stock by each component of the NE multispecies fishery. If the resulting sum of catch of that stock for each component of the fishery exceeds that individual component's share of that stock's ACL specified pursuant to paragraph (a)(4)(iii)(H) of this section, then the AMs specified in paragraphs (a)(5)(i)(A) through (C) of this section shall take effect, as applicable, unless otherwise specified in paragraph (a)(5)(ii)(C) of this section.

*(B) AMs if the overall ACL for a regulated species or ocean pout stock is not exceeded.* If the catch of any stock of regulated species or ocean pout by vessels operating only in state waters or in other, non-specified fisheries, as defined in paragraphs (a)(4)(iii)(A) and (B) of this section, exceeds the sub-component of the ACL for that stock, but the overall ACL for that stock is not exceeded, even after consideration of the catch of that stock by other sub-components of the fishery, then the AMs specified in this paragraph (a)(5)(ii) shall not take effect.

*(C) AMs for GB cod due to excessive catch by non-allocated fisheries.* For any overages of the GB cod ACL in the 2022-2024 fishing years, the amount of overage of the overall ACL for GB cod attributed to catch from vessels operating only in state waters or in other, non-specified fisheries, as defined in paragraphs (a)(4)(iii)(A) and (B) of this section, would be reduced by any underage of the GB cod ACL in the fishing year following the overage, in order to determine the total amount that must be added to the catch by components of the NE multispecies fishery, as specified in paragraph (a)(5)(i)(A) of this section. If the full ACL of GB cod is caught or exceeded in the fishing year following an overage, no reduction to this amount would be made. For example, if in 2023 NMFS determines that 100 mt of GB cod catch by vessels operating only in state waters or in other, non-specified fisheries in fishing year 2022 has contributed to an ACL overage, NMFS would implement the AMs specified in paragraph (a)(5)(ii)(A) of this section at the beginning of fishing year 2024. If 2023 fishing year-end data showed that total catch of GB

cod in fishing year 2023 was 25 mt below the 2023 ACL, NMFS would reduce the 100-mt overage amount by that 25-mt amount (down to 75 mt) in an in-season adjustment to the 2024 sub-ACLs, as specified in paragraph (a)(5)(i)(A) of this section.

\* \* \* \* \*

[FR Doc. 2023-11494 Filed: 5/30/2023 8:45 am; Publication Date: 5/31/2023]